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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 79**

**[CG Docket No. 06-181; FCC 11-159]**

Anglers for Christ Ministries, Inc., New Beginning Ministries; Petitioners; Interpretation of Economically Burdensome Standard

**AGENCY:** Federal Communications Commission.

**ACTION:** Interim rule.

**SUMMARY:** In this document, the Commission provides guidance on how it will construe, on an interim basis, the term “economically burdensome” for purposes of evaluating requests for individual exemptions. The intended effect of these actions is to ensure that the Commission evaluates petitions for exemption from the captioning rules in the way intended by the Communications Act (Act).

**DATES:** Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Traci Randolph, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418-0569 or e-mail [Traci.Randolph@fcc.gov](mailto:Traci.Randolph@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s Order (Order), document FCC 11-159, adopted October 20, 2011, and released October 20, 2011, in CG Docket No. 06-181. Simultaneously with the Order, the Commission also issued a Memorandum Opinion and Order in CG Docket No. 06-81, and Notice of Proposed Rulemaking in CG Docket No. 11-175. The full text of document FCC 11-159 and copies of any subsequently filed documents in this matter will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-A257, Washington, DC 20554. They may also be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, DC 20554, telephone: (800) 378-3160, fax: (202) 488-5563, or Internet: [www.bcpweb.com](http://www.bcpweb.com). Document FCC 11-159 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/caption>.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

## **PAPERWORK REDUCTION ACT OF 1995 ANALYSIS**

Document FCC 11-159 does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4).

## **SYNOPSIS**

1. As originally enacted, section 713(d)(3) of the Act authorized the Commission to grant an individual exemption upon a showing that providing closed captioning “would result in an undue burden.” Congress provided guidance to the Commission on how it should evaluate these captioning exemptions by setting forth, in section 713(e) of the Act, the following “four factors to be considered” in determining whether providing closed captioning “would result in an undue economic burden”: (1) the nature and cost of the closed captions for the programming; (2) the impact on the operation of the provider or program owner; (3) the financial resources of the provider or program owner; and (4) the type of operations of the provider or program owner.

2. In the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Congress amended section 713(d)(3) of the Act by replacing the term “undue burden” with the term “economically burdensome.” Specifically, amended section 713(d)(3) of the Act states: “A provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would be economically burdensome.”

3. In document FCC 11-159, the Commission provides guidance on how it will construe, on an interim basis, the term “economically burdensome” for purposes of evaluating requests for individual

exemptions under section 713(d)(3) of the Act, as amended by the CVAA. The Commission concludes that Congress, when it enacted the CVAA, intended for the Commission to continue using the undue burden factors contained in 713(e) of the Act, as interpreted by the Commission and reflected in Commission rules and precedent, for individual exemption petitions, rather than to make a substantive change to this standard.

4. The Commission also directs CGB, with respect to all petitions filed or re-filed subsequent to October 8, 2010, the date on which the CVAA became law, to use the original factors set forth in section 713(e) of the Act, as codified in §§ 79.1(f)(2) and (3) of the Commission's rules, in accordance with the guidance provided in the instant order, when making determinations as to whether an individual petitioner has made a documented showing that requiring closed captioning would be "economically burdensome."

#### **CONGRESSIONAL REVIEW ACT**

The Commission will send a copy of document FCC 11-159 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

#### **ORDERING CLAUSES**

5. Pursuant to the authority contained in sections 4, 5, 303, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 155, 303, and 613, and §§ 1.115 and 1.411 of the Commission's rules, 47 CFR 1.115, 1.411, document FCC 11-159 IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch,  
Secretary.

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